MONTANA LEGISLATIVE HISTORY

Chapter 407 19 75

Bill H _____ S 250 Original bill & history ✓ C

H. Committee on Judiciary			S. Committee on Public Health Welfare & Safety		
Hearing Date(s)	Mar 20	✓ C	Hearing Date(s)	Feb 06	✓ C
		C			C
		C			C
		C			C
Date Out	Mar 20	✓ C		Feb 06	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

Senate BILL NO. 250

INTRODUCED BY Thiessen Turnage Murphy LYNCH Halstead Drake Flynn

A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE REVISION OF THE LAWS RELATING TO OBSCENITY AND INDECENT EXPOSURE; REPEALING SECTIONS 94-5-504, 94-8-110 AND 94-8-110.1, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Short title. This act shall be known and may be cited as the "Montana Anti Obscenity and Offensive Conduct Act".

Section 2. Definitions. As used in this act:

(1) "Obscene material" means any picture, film, writing, painting, drawing, engraving, sculpture, oral utterance, or other depiction or description of hard core sexual conduct which taken as a whole:

(a) appeals to the prurient interest in sex;

(b) portrays sexual conduct in a patently offensive way; and

(c) does not have serious literary, artistic, political, or scientific value.

(2) "Hard core sexual conduct" means:

(a) any touching of the sexual or other intimate parts of the person of another; or

(b) penetration, actual or simulated, of the vulva, anus, or mouth of one person by the penis of another person; or penetration, actual or simulated, of the vulva or anus of one person by any body member of another person; or penetration, actual or simulated, of the vulva or anus of one person by any foreign instrument or object manipulated by another person; or

(c) conduct described in (a) or (b) above with any animal; or

(d) masturbation, excretory functions or lewd exhibition of the genitals.

(3) "Offensive conduct" means:

(a) any physical exhibition of the nude human body; or

(b) any physical exhibition of sado-masochistic abuse; or

(c) any physical exhibition of hard core sexual conduct.

(4) "Minor" means any person under the age of eighteen (18).

(5) "Nude" means uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human female breast below a point immediately above the top of the areola, or the covered human male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are

covered.

(6) "Sado-masochistic abuse" means flagellation or torture by or upon a person who is nude or clad in undergarments or in revealing or bizarre costume, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed.

Section 3. Offensive conduct. (1) A person is guilty of offensive conduct when, with knowledge of the offensive nature thereof, he purposely or knowingly:

(a) performs or otherwise participates in offensive conduct in a public place; or

(b) presents or directs a play, dance, show, or other performance in a public place, which in whole or in part, displays or exhibits offensive conduct; or

(c) if he, as an owner or manager of a public establishment, allows the performance of offensive conduct within the establishment.

(2) If the person who presents or directs in (1)(b) or the owner or manager in (1)(c) allows any minor to view or participate in offensive conduct described in [section 2(3)(c) of this act], he is guilty of a felony.

(3) Each other violation of this section is a misdemeanor.

Section 4. Obscenity. (1) A person is guilty of obscenity when, with knowlege of the obscene nature thereof,

he purposely or knowingly:

(a) sells, delivers, or provides, or offers or agrees to sell, deliver, or provide any obscene material to any person; or

(b) exhibits or displays, or permits to be exhibited or displayed any obscene material in a public place; or

(c) creates, buys, procures, or possesses obscene material with the purpose of disseminating it to any person; or

(d) advertises or otherwise promotes the sale of obsoene material or materials represented or held out by him to be obscene.

(2) A person who sells, delivers, or provides obscene material to a minor is guilty of a felony.

(3) Each other violation of this section is a misdemeanor.

Section 5. Trier of fact in obscenity cases. In order to conclude that a work is obscene, the trier of fact must find that:

(1) The average person in Montana, applying contemporary community standards, would find that the work, taken as a whole, appeals to the prurient interest;

(2) The work depicts or describes, in a patently offensive way, sexual conduct specifically defined in [section 2(2) of this act]; and

(3) The work taken as a whole, lacks serious literary, artistic, political, or scientific value.

Section 6. Severability. It is the intent of the legislature that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all the valid applications that are severable from the invalid applications.

Section 7. Sections 94-5-504, 94-8-110 and 94-8-110.1, R.C.M. 1947, are repealed.

-End-

SB 250

MINUTES OF THE MEETING
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
MONTANA STATE SENATE

February 6, 1975

The nineth meeting of the Public Health, Welfare and Safety Committee was called to order by Chairman Norman on the above date in the Highway Auditorium at approximately 11:00 a.m.

ROLL CALL: All members were present

CONSIDERATION OF SENATE BILL NO. 250: This bill would act for the revision of the laws relating to obscenity and indecent exposure; etc.

The hearing on this bill was opened by Senator Thiessen, chief sponsor. He began by stating that Montana had the least effective "porno" laws of the United States. His bill, he said, would go as far as constitutionally possibly to control pornography.

He then introduced Mr. Tom Beers of the Attorney General's office, who was responsible for drafting the bill. He said he had been asked to make the bill as tight as constitutionally possible. It was drawn in, more or less, two parts; namely, 1) obscene materials and 2) offensive conduct. Mr. Beers then proceeded to read through the bill stressing the various strong points and bringing out definitions.

Sheriff John Moe of Missoula was then introduced also as a proponent of this anti-pornography bill. He passed out to the committee various "hard-core", obscene material which he said was available just a few blocks from a high school in Missoula. He then read material on various X-rated films which had been shown in Missoula (See Attachment 1). He felt the availability of pornographic material lends to the increasing crime rate. (See Misc. Attachments 2)

Al Muskie, a senior in a Missoula High School, listed his various reasons for supporting the bill, including as he said, an increasing number of abortions, invasion of marital privacy and family raising, hampering of ERA attempts and basic enroachment on human relationships.

Another proponent, Mrs. Pearl Winsor, a Helena housewife and mother of two school-age children felt pornography lead to marital problems as well as providing problems in raising children.

Joe Stark, a U of M student, rose and gave his testimony in favor of the bill (See Attachment 3).

Miss Deb Price, another U of M student was also a proponent and felt the freedom we now have is leading to ultimate slavery.

Mr. Bill Romine, a lawyer representing the Montana Theatre Owners, gave testimony in opposition of the bill. (See Attachment 4)

Mr. George Buzzas, a theatre owner and opponent to the bill said he had a family of 4 children with two grand children. He felt it important to educate them in the home. He said he didn't particularly care for the X-rated films but as theatre entertainment, he wanted to provide an unlimited variety.

Mr. Doug Williams, a Bozeman theatre owner and elected president of the State Theatre Association was in opposition to the bill. He said he carried out very strictly the practice of carding and restricting underaged people from seeing X-rated films.

Rosemary Zion, representing the Civil Liberties Union, opposed this bill. In her view, we cannot legislate morals. She said she didn't like pornographic materials or film but she simply chose not to see or read the same.

She felt that passing this bill would create a new class of criminals. She also said the University of Montana student body is generally opposed to this bill.

In closing Senator Thiessen introduced Senator Turnage who in support of the bill and who felt the state is for the bill. Mr. Beers also rose and challenged statements of Romine disputing some of the wording in the drafted bill.

Senator Thiessen presented a petition signed by people in support of the bill. He said there were several ranchers meeting with the Governor, and the Department of Health, etc.

With no further testimony, the meeting was opened to questions from the committee.

Senator Colberg asked Mr. Beers if a nude model were used in an art class, would he/she be considered a criminal? Beers said if the students were under 18 it would be a felony, if over, a misdemeanor. This same thing would hold true for medical students examining a nude body.

Beers stressed that most of the decisions on these would be left up to a jury and would be weighted thus.

When asked by Senator Stephens if he would be hesitant to show many shows such as the Godfather, Ryan's Daughter or Midnight Cowboy in his theatre should this bill be passed, Mr. Williams said he would definitely have doubts about it.

Senator Seiberg asked Mrs. Winsor if the offensive material displayed in front of the committee could be found in our ordinary grocery stores or drug stores. She admitted most of it couldn't be.

Senator Seibel also referred a question to a statement made by Sheriff Moe that this was causing diseases not normally obtained from oral sex. He would not elaborate.

Senator Colberg asked Sheriff Moe if the material could be legally displayed to minors and if not what would the penalty be. He said the penalty is a maximum of $500 fine or six months jail sentence.

Chairman Norman asked Mr. Beers if on page 4, line 20 any thought had been given to amending this to where local communities could ask for their own ordinances. Mr. Beers said this could be a possibility.

The hearing was then closed on Senate Bill 250. Chairman Norman set up a subcommittee to further consider the bill, consisting of Senators Blaylock, Lee and Stephens.

ADJOURN: The meeting was adjourned at 1:30 p.m.

Bill Norman

BILL NORMAN, CHAIRMAN

ROLL CALL

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

44th LEGISLATIVE SESSION -- 1975

Date Feb. 6

NAME	PRESENT	ABSENT	EXCUSED
NORMAN, Bill, Chairman	X		
SEIBEL, Ann, Vice Chairman	X		
BLAYLOCK, Chet	X		
COLBERG, Richard A.	X		
LEE, Robert E.	X		
HIMSL, Matt	X		
OLSON, S.A.	X		
STEPHENS, Stan	X		

Each day attach to minutes

DATE _____

COMMITTEE ON _____ BILL NO. _____

VISITOR'S REGISTER

NAME	REPRESENTING	BILL NO	Check One	
			Support	Oppos
Jim Warner	Theatre Operator Inc	250		X
Henry F. Lussy	Wasko Amusement Co	250		X
Thomas E. Hines	Anderson Theatres Kalispell	250		X
Randall L. Hines	Anderson Theatres Co. Kalispell	250		X
Bob Price	University of Montana	250	X	
Joe Dark	University of Montana	250	X	
Ken Deutsman	Director of U of M Western Campus Crusade for Christ	250	X	
Rev. Alfred Redmond	Gideon Bible Ass'n	250	X	
John H. Brewer	Mule Country Assn. of Fort Smith	250	X	
Harry J. Gaskey	Sheet Metal Workers Int'l Assn	250	X	
John S. Lang	Myself as a Family Man	250	X	
Jim L. Fay	Concerned parent & citizen	250	X	
Ralph Smith	Family	250		
Larry Floyd	Interstate Amusement Inc.	250		X
Dewey Galyean	Gaslight Amusement Inc	250		X
David Lakel	Theatre Operators Inc.	250		X
Norman Perry	Theatre Owner	250		X
Don Edwards	Theatre Owner	250		X
Joe Berg	Home Theatre owner	250		X
Richard C. Snyder	Wolf Point Theatre Owner	250		X
C. Tyler Orr	General Mgr. Fourth Theatres Helena Owner	250		X
Bill Conklin	K. of C. Missoula	250	X	
Leonard L. Brodeck	K of C Missoula #1021	250	X	
A. R. Rollins	K of C Missoula Council #1021	250	X	
Mrs. A. R. Rollins	Family Missoula	250	X	
Dave Manning	Helena	250	X	

(Please leave prepared statement with Secretary)

VISITOR'S REGISTER S.B. 250

NAME	REPRESENTING	Check One: Support	Oppose
William L. Romine	Montana Theatre & Owners Assoc.		X
Robert M. Federico	Representative		X
Pearl Winsor	SELF	X	
Thomas J. Bers	Attorney General	X	
Alan Musket	Missoula Youth Group	X	
Fred C. Moe	Missoula County Sheriff	X	
Jane Mary Pedersen	Montana Citizen	X	
Pat Kaeding	Women's Council of Catholic	X	
Beverly Gluckert	Mother of children - Tax payer Women	X	
Rita Williams	wife, Mother, grandmother & Citizen	X	
Larry Burgess	TWI-LITE THEATS. GREAT FALLS		X
Larry Elliott	STATE THEATRE ASSOC (MONT)		X
Jim Bailey	Roxy-Starlite Theatres, Hamilton		X
Ken Marquett	United Methodist Church	X	
Al J. Marquett	" " "	X	
Martha E. Blenkarn	United Methodist Church C.W.S.	X	
M.J. Lundberg	Church Woman United Meth.	X	
L. Lester	Church of God Missoula	X	
C.R. Munger	Theatre Owner		X
Mary D. Munger	Theatre Owner		X
Evan D. Kaechele	Church of the Nazarene, Missoula	X	
C. Allen Blackshaw	" " "	X	
Timothy L. Thompson	Student University of Montana		X
Bob Raynstrom	Theatre manager, Missoula		X
R.V. Dias	Shop-Dias Enterprises, Missoula		X
W Durdette	University of Montana		X
Mike McGuire	FOURSQUARE CHURCH - MISSOULA	X	

(Please leave prepared statement with Secretary)

DATE _____

COMMITTEE ON _____ BILL NO. _____

VISITOR'S REGISTER

NAME	REPRESENTING	BILL NO	Check One	
			Support	Oppos
Hugh Jardonn	Self	SB 250		X
Ross P. Middlemist	Lolo Community Center	SB 258	X	
Virginia D. Middlemist	Lolo Community Church Lolo Homemakers	S. 13 2 30	X	
Elaine C. Mills	Lolo Ed. Womans Club Northwest Tribune Rep.	HB 230	X	
Melva Campbell	Lolo Community Church	250	X	

(Please leave prepared statement with Secretary)

Sherry Rose
Attach 1

MEMORANDUM - MISSOULA, MONTANA

STUDIO I

On 1-13-75 a Missoula County Deputy Sheriff observed films in vivid color at Studio I, Missoula. One show depicted deviate sexual conduct between men and women, various types. Another film captioned, "Animal Lovers," depicted scenes of beastiality of a woman on a bed masturbating a dog, forcing the dog to perform cunnilingus on her, performing fellatio on the dog, inserting the dog's penis into her vagina and finally forcing the dog to climax.

The next act of beastiality showed the woman, naked, laying next to a very large pig. She performed fellatio on the pig and then tried to get the pig to perform cunnilingus on her.

The final episode of beastiality occurred between the girl and a horse. The woman was shown performing fellatio on the horse, rubbing the horse's penis between her legs (both from the front and from behind), and masturbating the horse. She finally put a bag over the horse's penis and after the horse had ejaculated into it, she removed the bag which contained a large quantity of horse semen, and poured the contents over her breasts, chest, stomach and thighs. She then proceeded to masturbate herself while rubbing the horse semen over her body.

MISSOULA BOOK STORES

On 2-1-75 this Deputy visited a Missoula book store. According to the sales girl, the pornography section accounted for approximately 95% of the store's entire cash income and the store could not survive without the sales of pornography. She said she does not ask for I.D.'s from customers, but asks persons she feels are under 18 to leave the pornography section. She also stated that the number of persons under the age of 18 coming into the store to look at pornography was "noticeable."

This store also has a film section which she classified as "hard core." She stated the store also sells "vibrators" which were sold out.

The sales girl listed pornography dealing with "man and woman sex acts as most popular; second were 'gay' magazines; third, those dealing with sado-masochism - sex combined with torture and pain; and fourth, those depicting lesbian acts."

On 2-3-75 the Deputy visited another book store located within one block of a high school, frequented by high school students, and several blocks from the University. The salesman there stated, "the greater part of the store's income is from the sale of pornography." This salesman, when asked his opinion re pornography, stated, "it doesn't do any harm to society, other than isolated instances -- an excess might not do any good."

Senators, Ladies and Gentlemen, since January 1, 1974, Montana has had the weakest obscenity law of any of the 50 states. Montana is being flooded by obscene matter depicting all forms of deviate and violent sex conduct.

I brought some samples of material for your examination. I hope that you are not offended and I am reluctant to exhibit this merchandise, but it is available currently to your children, the insecure, immature and mentally unstable. Thousands of these items are now legally available to anyone 18 years of age or over and only a misdemeanor if distributed to persons under 18. This is what is termed hard core pornography and, the distribution of which would be made illegal under SB250.

(SHOW MATERIAL - SUMMARIZE VISITS TO TWO BOOK STORES: POINT OUT THAT OTHER MATERIAL, INCLUDING "STIMULATORS AND VIBRATORS," ARE ALSO AVAILABLE.)

Further, public theaters in Montana now openly portray hard core obscene films that are declared illegal in other states. During the past month a theater in Missoula displayed for two weeks a film portraying in vivid color deviate sex acts between a young girl, a dog, a pig and a horse with the film commentator encouraging such conduct. This girl performed fellatio on the animals and other acts. The film is more vividly described in this report, but I consider it too obscene to read here. (Also show ads in Missoulian)

Live, obscene shows and massage parlors are also in operation in Montana. We have information that more live acts are on the way.

The U.S. Supreme Court has consistently held that control of such material is not censorship under the Constitution, and that the states

have broad powers to control same. The Court recently so held in the Miller v. California and Hamling cases.

Research, hard experience and thousands of documented cases prove that pornography and deviate sex conduct contributes to crime - violent crime, and to costly human misery - VD, broken homes, damaged minds and bodies, abandoned and mistreated children, etc., etc.

(1. "U.S. Attorney General Saxbe's remarks; 2. Show bulletins F.B.I., and sex crimes in full.)

You have probably heard of the Presidential Commission study made in 1970 in which the majority report recommended legalization or de-criminalization of obscenity. A recently published book by a Dr. Cline which is widely quoted, Where Do You Draw The Line, discusses in detail pornography research, experience in other countries, including Denmark, and the Commission Report. Dr. Cline points out that research now reflects that a significant minority (39% of sex offenders) have indicated that "pornography had something to do with their committing the sex offenses they were convicted of." He further states, "no attention was paid by the Commission to the problem of porno violence or sadomasochism, where pornography is linked together in books and motion pictures." He points out an absence of youth studies in the Commission report relative to the influence of pornography and states that "the majority of the Commission suppressed information that goes against its recommendation."

Gentlemen, during the past 35 years, I have investigated many of these cases in the skid rows of the United States and Mexico and interviewed hundreds of victims. (I have often wondered why the civil libertarians are so unconcerned.) We should be concerned about the civil rights of

the unfortunate young women, boys and girls exploited by the pimps and producers of pornography for profit. Many of these victims are of low mentality, or mentally unstable; many are drug addicts - some forcibly - (all) exploited for profit. There is money, big money, in pornography mostly controlled by organized crime. Some authorities claim there is currently more money for the Mob, the Cosa Nostra, in porno than in heroin. (Show organized crime data)

Gentlemen, crime, violent crime, including assaults on women and children is increasing at an alarming rate. During the past five years, serious crime in Montana increased some 40%. May I respectfully suggest that if you are concerned for your children, your grandchildren, the victims of crime, and the already overburdened taxpayers who are footing the bill for the human misery pornography contributes to, you will give Montana a strong anti-obscenity law, one patterned after the laws of most of the 50 states. Thank you for your time.

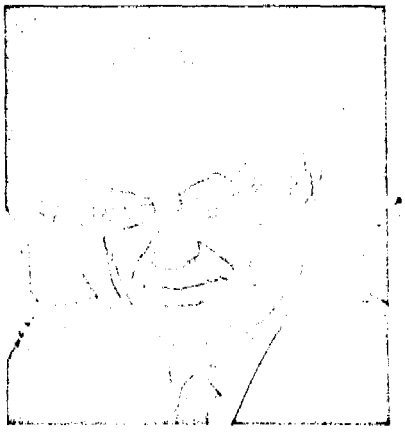
JOHN C. MOE
Sheriff

National Decency Reporter
Newsletter of Citizens for Decency through Law, Inc.
VOL. XI, NO. 4 September-October, 1974

Porno and Sex Violence-
Partners in Crime

In an August 27 speech to assembled Police Chiefs in Chicago, Attorney General William Saxbe expressed deep concern over the rising crime rate. The nation has suffered "a severe setback" in the war against crime, said Saxbe, who attacked "permissiveness of all sorts" as a cause of rising crime.

"As a society, we seem to have absolutely lost our perception of a variety of things that can corrupt and distort the young," said Saxbe. He denounced alcoholism, drug abuse and pornography, which he said has become "as widespread as baseball."



Attorney General William Saxbe

CDL welcomes and encourages Attorney General Saxbe's concern in this area. Years ago J. Edgar Hoover deplored the fact that "Sex-mad magazines are creating criminals faster than we can build jails to house them." The former FBI Director spoke out frequently on the relationship of pornography to crime. In an article published by *This Week Magazine* several years ago, Mr. Hoover said:

> What we do know is that in an overwhelmingly large number of cases sex crime is associated with pornography. We know that sex criminals read it and are clearly influenced by it. . .
> I believe pornography is a major source of sex violence. I believe that if we can eliminate the distribution of such items, we shall greatly reduce our frightening crime rate.

Mr. Hoover expressed concern long before the real explosion of hard-core pornography that we have witnessed the past four years. Law enforcement officials — from Attorney General Saxbe on down — are even more convinced today of the relationship of pornography to crime.

Police in Duluth, Minnesota, blamed the increase in sex crimes on the amount of pornography in that city. One recent case involved the sexual assault of a baby sitter by a man whose wife said he had been obsessed since seeing an X-rated movie that included a rape scene. Another case involved the attempted rape of three girl hitchhikers by a man who admitted being incited by pornography viewed in a Duluth "adult" bookstore.

Duluth police also report an increase in juvenile sex crimes in which pornography serves as a model. A 12-year-old boy was caught experimenting sexually with two six-year-old girls with the pages of a porno magazine (belonging to the girls' father) opened to color photos depicting similar activity among adults.

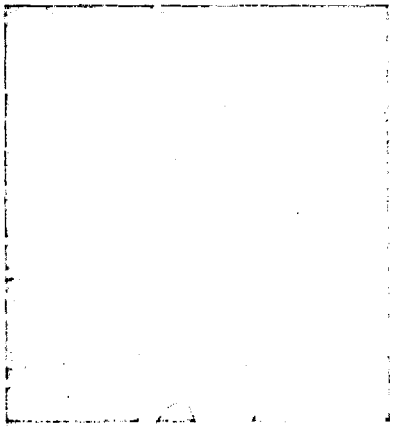
CDL Survey

As reported in the May-June, 1974 issue of the *Reporter*, CDL recently surveyed Police Chiefs in California. The survey questionnaire sought professional opinions regarding the relationship of pornography to sex crimes and information on specific cases considered especially relevant.

Respondents to the survey *unanimously* confirmed what intelligence and common sense have long recognized. California Police Chiefs agree with Attorney General Saxbe — and the late J. Edgar

(Continued on page 2)

Prosecutor of the Month



Charles R. Lindsay, Assistant District Attorney, Shreveport, La.

CDL's Prosecutor of the Month is Charles R. Lindsay, Assistant District Attorney of Caddo Parish, (Shreveport) Louisiana.

Mr. Lindsay is a graduate of Louisiana State University Law School where he currently instructs in Criminal Law and Procedure. After several years in private practice he joined the Caddo Parish District Attorney's staff in 1967.

Under the leadership of District Attorney John A. Richardson, Caddo Parish has maintained an aggressive policy of obscenity law enforcement. As Assistant District Attorney responsible for obscenity prosecutions, Lindsay obtained lower court judgments against two pornographic motion pictures, "The Stewardesses" and "Last Tango in Paris" — to abate them as *public nuisances*. The nuisance judgment against "The Stewardesses" was upheld by the Louisiana Supreme Court and was then appealed to the United States Supreme Court.

(Charles Lindsay was finding out the hard way what many prosecutors around the country have learned. The defense for porno films is highly financed and very aggressive. They are willing — and financially able — to take most every case all the way up to the

(Continued on page 4)

National Decency Reporter
Newsletter of Citizens for Decency through Law, Inc.
VOL. XI, NO. 2 May - June, 1974

CDL Police Survey Proves Porno Pollutes

To counter arguments that pornography has no effect on conduct and that obscenity is a "victimless crime," CDL is currently surveying California Police Chiefs for facts on specific sex crimes in which pornography was obviously involved and for opinions based on professional police experience regarding the relationship of pornography to sex crimes and other anti-social conduct. Based on response to the California survey, the technique will be expanded to include other key jurisdictions.

Initial responses confirm what intelligence and common sense would expect —police officers are absolutely convinced there is a relationship between pornography and anti-social conduct. The depth of their conviction is reflected in the following quotes:

Chief with 23 yrs. service:

"The degrading manner in which pornography distorts and emphasizes deviant sexual behavior, coupled with its profuse and indiscriminate availability, develops an unhealthy interest in sex.

"Two recent cases immediately come to mind; one of which resulted in the strangulation death of the victim. In both cases, the kidnapped female victims were bound, hand and foot, and multiple sex acts committed upon their bodies. Both suspects, when arrested, had pornography in their possession which displayed violent sex acts, including bondage and sado-masochism."

Chief with 27 yrs. service:

"The fact is that our society is besieged by pornography. The cumulative effect of a permissive stand toward pornography regarding consenting adults filters down to children. As an example, is there any intelligent twelve year old who is unaware of what "Deep Throat" connotates?

Chief with 24 yrs. service:

"I think you should bring out the fact that women who are involved in posing for pornography are often found to be prostitutes who wind up in our mental institutions or as alcoholics or dope addicts riddled with venereal disease. They are also found to be of low mentality and exploited by the b****** that get them into this line of work. We should give more consideration to their welfare —as law enforcement officers.

"We have a Pussycat Theater which shows soft and hard-core pornography— which the police department has been fighting ever since its inception. The first police fatality suffered by this city was a direct result of the subject who attended this theater and was friends with the assistant manager and his wife. He sexually assaulted her while she was pregnant, forced her to commit oral copulation and, in the resultant investigation by our department, one of our detectives was killed by this b******."

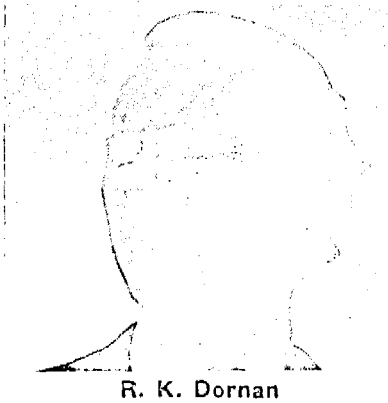
In 1969, Charles Keating urged the Presidential Commission to devote less time to theoretical studies by social scientists and place more emphasis on the practical aspects of the obscenity problem as reflected in actual experiences of police agencies. In a letter to the Commission Chairman, William Lockhart, Keating detailed examples of the convincing evidence available from such sources. The Commission proceeded to ignore Keating's suggestion, apparently for fear it would conflict with the preconceived bias of the Commission majority.

Results of the California survey— together with quotations and examples —will be published in future issues of the Reporter.

NOTICE

See special insert in this issue for complete step-by-step plan for a successful community campaign against pornography.

CDL Spokesman Guests On Mike Douglas Show



R. K. Dornan

The taping of Bob Dornan's guest appearance on the Mike Douglas Show is tentatively set for the last week in May. It's bound to be an informative and dynamic show. Watch for it!

The Mike Douglas Show is syndicated to most major cities; you can get exact time and station by checking your TV Guide. Show date is anywhere from one to three weeks after taping date.

As National Spokesman for CDL, Bob has been crisscrossing the country speaking, debating and making media appearances. Response has been fantastic. Arrange for a visit to your community by contacting CDL, 5670 Wilshire Blvd., Los Angeles, CA., 90036. (213) 933-2686.

PROSECUTOR OF THE MONTH

As Chief of Special Crimes for Bexar County, John L. Quinlan, III, has richly earned the CDL title "Prosecutor of the Month." This section of District Attorney Ted Butler's office investigates and prosecutes members of organized crime. Since August of 1973, Quinlan has led a joint task force combating pornographers on local and state wide levels.

Quinlan is a native of Texas and a graduate of St. Mary's University School of Law. He was appointed to the District Attorney's Office in October, 1965 Governor Briscoe named him to the operating committee of the State Organized Crime Control Commission in 1972, and he was also a member of the Texas State Bar Committee that suc

(Continued on Page 6)

Proponents for the legalization of pornography emphasize the following arguments, which are readily refuted by expert and recent research. These arguments include:

1. YOU CAN'T LEGISLATE MORALITY

   We can't legislate moral people, but we do legislate morality in many areas - murder, rape, burglary, robbery, etc., etc., etc., etc.

2. NO ONE IS FORCED TO PURCHASE OR VIEW PORNOGRAPHIC MATERIAL OR FILMS

   No one is forced to go to houses of prostitution, to purchase or use dangerous drugs, to commit burglary or other crimes either, but society recognizes that such activity contributes to immoral conduct that is destructive of the public morality, i.e., the morality of the community in which the essential element of society - the family - must thrive.

3. CONTROLLING PORNOGRAPHY CONSTITUTES CENSORSHIP IN VIOLATION OF THE FIRST AMENDMENT - RIGHT OF FREE SPEECH

   The United States Supreme Court is responsible for interpreting the Constitution and it has consistently held that obscenity is not constitutionally protected speech and that the states have broad power to control the commercial production, sale, distribution, or exhibition of obscene materials. The most recent Supreme Court decision includes Miller v. California and the Hamling Case decided in June, 1974.

   At the present time, there are at least 18 areas where free speech can be limited, prohibited, or in some way "censored" in the best interests of society. These include the following:

   (1) False advertising - it is illegal to fraudulently misrepresent merchandise for sale;

   (2) Speaking a prayer, reading the Bible, or giving instruction in religious matters in public schools;

   (3) Libel, slander, defamation of character;

   (4) Saying words which amount to a conspiracy or an obstruction of justice (Watergate);

   (5) Sedition;

   (6) Words which tend to create a "clear and present danger," such as, yelling "fire" in a crowded theatre;

   (7) Words offering a bribe to a government official;

   (8) Words from a loud speaker at 3:00 a.m. in a residential neighborhood, disturbing the peace;

(9) Perjury under oath;

(10) Television cigarette advertisements

These exceptions undoubtedly reflect the will of the people.

4. DENMARK - PORNO IS LEGAL THERE AND HAS NOT CONTRIBUTED TO AN INCREASE IN CRIME OR CAUSED OTHER PROBLEMS

The statistical decrease in sex crimes is attributed by some authorities to the fact that what used to be a sex crime is now either legal or tolerated. In his recent book, Where Do You Draw the Line, Dr. Victor Cline reports the findings of one researcher: "26% of the men and 61% of the women of Copenhagen, Denmark, had been victims of some category of sex crime, some minor, some serious. However, only 6% of the males interviewed and 19% of the female victims actually reported these to the police. There was no reduction at all in the numbers reported of violent sex crimes and rapes, both in Copenhagen and Denmark; and the possibility exists that, in actual numbers, they may have increased, but victims are reporting them less often."

5. IF PORNO IS LEGALIZED IT WILL BECOME BORING

A constant diet of anything will tire people; but like any other human appetite, the sexual appetite remains satiated for only a temporary period.

Dr. Paul Popenoe, famed marriage counselor, is quoted as observing that "throughout history, civilization has depended on holding the sex drive in abeyance until intelligence could take over; and when a nation failed to maintain this balance, it began to deteriorate." If legalized, how do you prevent the immature, the mentally unstable, and the sexual psychopaths from access to porno material, which research and experience shows contributes to crimes by them or other social problems.

6. THERE IS NO EVIDENCE THAT PORNOGRAPHY CAUSES CRIME

(a) Innumerable documented cases refute this statement. See Reader's Digest reprint, "What Sex Offenders Say About Pornography."

(b) Also, see attachment reflecting interviews of Police Chiefs in California.

(c) Also, see copy of "National Decency Reporter," September-October, 1974, reflecting views of U.S. Attorney General William Saxbe.

(d) FBI Director J. Edgar Hoover in numerous publications documented numerous other cases where pornography influenced criminal activity.

(e) Other recent cases include report of psychiatric examination of confessed Chicago killer, Lester Harrison, January 2, 1974 - In confession, "he documented eight separate incidents of assault, robbery and attempted rape, four of which resulted in murder. The modus operandi in each of these crimes of violence was strikingly similar. Harrison would stimulate himself sexually by going to an erotic X-rated movie, drink heavily, go to a public place, such as a park or institution, and attempt to have sex with a woman by force.....In every case, he indulged in sexual sadism."

(f) Dr. Cline further reports in his book in a Presidential Commission Study (1970), seven groups of adult males (sex offenders, mental hospital patients, University students, and others). It was reported that, "a significant minority (39%) of the sex offenders indicated that 'pornography had something to do with their committing the sex offense they were convicted of.' The researchers also found that their offenders significantly more often claimed they had been influenced by pornography to commit a sexual crime."

Further, referring to the widely quoted Presidential Commission Report, according to Dr. Cline, "No attention was paid to the problem of porno-violence or sadomasochism, wherein pornography and violence are linked together in fiction and increasingly in motion pictures. This omission is particularly surprising...

Dr. Cline also points out an absence of youth studies relative to influence on porno and a number of other discrepancies in the Presidential Commission Report. In summary, Dr. Cline states, "It should be borne in mind that the Commissioners were concerned to 'make a case,' and that in doing so, they may not always have been entirely scrupulous about weighing the evidence impartially... The writers of the majority report do not enter the necessary caveats in discussing these researches; they tend to generalize too freely, from one group to other groups dissimilar in age and character, and from short, often single exposures, to lengthy and multiple exposures. Such generalizations are not permissible, and though one may recognize the ethical difficulties involved in presenting such material to children, say, or of going beyond the limits of single or at most very limited presentations (of pornography), nevertheless, these limitations should be recognized and emphasized. Failure to do so implies a slide from scientific discussion to propaganda. Worse, the majority report suppresses information that goes against its recommendation." (1972:98).

7. PORNOGRAPHY DOES NOT CONTRIBUTE TO OTHER SOCIAL PROBLEMS

In article in "National Decency Report," January-February, 1972, Dr. Phillip Sarrell of Yale University reports that his Counseling Office "sees the casualties among clients who, far from being enlightened by the sex manuals on the market, are upset because their

responses are not identical to those described in porno books."

In the same issue, Dr. B. Otis Cobb of the California Venereal Disease Task Force says that, "children as young as 10 are being infected with VD in California. 10% of all persons between 15 and 24 in California were treated for VD last year. Public health officials say that for every case reported, four go unreported--which indicates 40% of the 15-24 age group now have syphilis and/or gonorrhea. National experts attribute the epidemic to a variety of causes, including "a steady relaxation of morals including the upsurge in X-rated movies and more liberal court opinions dealing with pornography."

"The inundation of communities by pornography has contributed to a breakdown in sexual morality reflected in costly social problems, such as pandemic venereal disease, soaring illegitimacy, alarming divorce statistics and a sex crime rate literally out of control."

8. ORGANIZED CRIME

See Reader's Digest reprint "Inside the Mob's Smut Rackets." Also, see Reader's Digest reprint, December, 1971, "Smut: The Mafia's Newest Racket." See news releases "New York Times," December 10, 1972, and "Crime Families Taking Control of Pornography." Also, see "Los Angeles Times" issue May 15, 1973, 'Pornography Ring Linked to Mafia.' Also, see headline, 'Crime Control 90% of New York Porn.'

Pornography trade attracts a low element of society - easily controlled by the underworld - who are known to employ unethical and even violent tactics to control lucrative outlets.

9. PORNOGRAPHY IS A VICTIMLESS CRIME

There are no victimless crimes. Police experience has conclusively demonstrated innate relationship between "victimless crimes," and patterns of more serious crimes. It is the responsibility of the Police to provide a safe and stable community for all citizens. The public is always the victim of victimless crimes.

A California Chief of Police with 24 years of service states, "I think you should bring out the fact that women who are involved in posing for pornography are often found to be prostitutes who wind up in our mental institutions or as alcoholics or dope addicts riddled with venereal disease. They are also found to be of low mentality and exploited by the b****** that get them into this line of work. We should give more consideration to their welfare - as law enforcement officers."

Pornographers exploit young girls and even children in their wares - to appeal to the ever more perverse appetites of a small percentage of the population, attracted to pornography on a continuing basis.

The Trial of Billy Jack

DOLORES TAYLOR

and

TOM LAUGHLIN PG

SHOWS OPEN 2:15
SHOW TIMES
2:45-4:15-5:45
AT REG. PRICES

THE NEW Breed of Indian IS BACK!

ENTERTAINER

The World Population Crisis

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—PLUS—

"THEATER GAMES"

DO NOT ATTEND IF YOU ARE OFFENDED BY TOTAL SEXUAL FRANKNESS

MANN THEATRES

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★ BOX-OFFICE OPEN 12:15 P.M. ★

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SUNDAY

ADDED ★SPECIAL★ COLOR CARTOONS

SATURDAY & SUNDAY MATINEES

Sleeping Beauty

Mountain

ALL SEATS ..... 75¢

TEDDY EOCLES Starring THEODORE BIKEL

SHOWS AT— 12:30-2:15 P.M.

-★- MATINEE ONLY!!!

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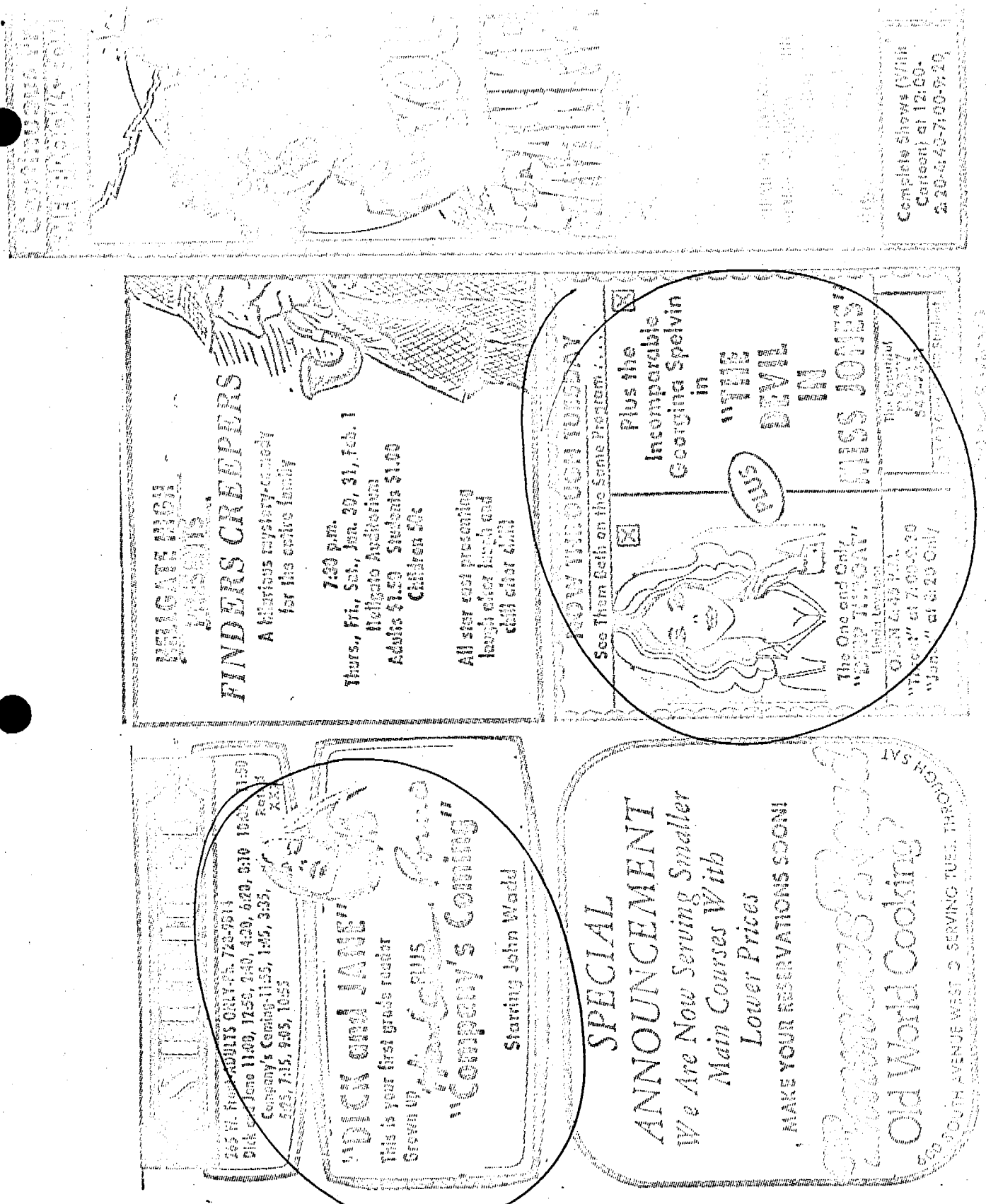
HARPOON

An all NEW film inspired by the

THE MISSOULIAN, Jan. 12, 1975

#ANIMAL LOVERS" portrays in vivid color bestiality, deviate sex acts between young woman, a dog, a pig & a horse.



THE MISSOULAIAN - Feb. 1, 1975

FOUR HARD CORE PORNOGRAPHIC FILMS - Illegal In many States

Joe Stark
Attachment 3

PORNOGRAPHY HEARINGS

I. Introduction
   A. Appreciation
   B. Tough to be legislating.
   C. Personal introduction.
      1. Joe Stark
      2. Senior, Broadcasting Journalism
      3. Taking stand for passing of legislation

II. Reasons for taking this stand
   A. Based on personal experience
      1. 18-22 year olds not superior to 50 year olds.
   B. Pornography is a perversion of sex as God intended it.
      1. Separates sex from God.
      2. Creates something animalistic.

III. Effect of pornography
   A. Experience of relationship of sex without marriage.
      1. Warped images of sex and place in life.
      2. Grace of God setting us free.
   B. On campus pornography
      1. Reverts bach to images and thoughts I'm trying to erase.
      2. Choice between dwelling in the past or moving on to realization of the goal God has for me in marriage.

IV. Personal view of sex in marriage
   A. Involves giving total self through sex to wife.
   B. Pornography advocates this experience being done often and with varying persons.
   C. Pornography has cheapened a love relationship.

V. Pornography on campus.
   A. Keep it off campus
      1. Cheapened a love relationship.
      2. Destructive and ugly.
   B. Students can't control effect
      1. Not a question of freedom of expression.
      2. A question of being enslaved by what controls us.

VI. Leadership of next generation
   A. Burden on our shoulders to pave the way for our kids.
      1. Restriction on pornography expresses love and concern for the yougsters in our lives.
         A. As a father disciplines his child in love.
      2. That is the reason for passing of legislation.

Attach 4

SENATE BILL NO. 250

Mr. Chairman and members of the committee, my name is William L. Romine and I represent the Montana Theatre Owners Association which opposes Senate Bill 250.

To begin with, it must be recognized that Senate Bill 250 does propose censorship. Call it what you may, the intent of Senate Bill 250 is to prohibit the expression of certain ideas and to prohibit adults from voluntarily doing or seeing certain expressions of ideas. This is in effect, censorship.

When we approach any piece of legislation as substantial, and as controversial as the intent of Senate Bill 250, we must first look to the basic laws of the land. In this instance, we must look to the Montana constitution.

The 1889 constitution provided, in relevent part, that no law shall be passed impairing the freedom of speech. The present Montana constitution also makes a declaration concerning the rights of the people of Montana. Section 7 of Article II of the 1972 constitution contains different language than the language of the 1889 constitution. The present constitutional provision provides as follows:

> "No law shall be passed impairing the freedom of speech or expression."

It is basic to note the differences between the older constitutional language and the present constitutional language. The older constitutional language only applied to freedom of speech. The present constitution includes not only freedom of speech but also freedom of expression, and provides that no law shall be passed impairing such freedom.

We also have under the new constitution a new declaration of rights, not found in the older constitution. This is Article II section 10 which states as follow

" The right of individual privacy is essential to the well being of a free society and shall not be infringed without the showing of a compelling state interest."

The right to attend a theatre to see a movie which has been rated R or X and which may be to some individuals objectional, is a right of privacy and a right of individual choice. Unless there is a showing, under the constitution, of a compelling state interest, I am entitled to exercise my right of privacy.

Aside from the constitutional provision, we must also take a look at the present Montana Statutes. In 1973, the Montana Criminal Code was passed as a result of the criminal law study commission which had spent many years in preparing the code. The present statute, 94-8-110, prohibits obscenity only when it is specifically directed to a person under the age of 18. It is, similar to the Illinois criminal code and the American Law Institute Model Penal Code draft. It recognizes the right of privacy, it recognizes the freedom of choice, but it also recognizes the states right to protect minors from obscenity. The association maintains the position the present laws satisfy any protection necessary, and is the only showing of a compelling state interest, that state interest being in its minors.

Under Senate Bill 250, we are enlarging the present law to encompass adults, and in effect saying that a jury of 12 will decide for the adult population those things that the adult population can view and cannot view. This is taken without any showing of compelling state interest, and flys in the face of freedom of expression and the right to privacy.

As far as the federal constitution is concerned we have noticed over the last 17 or 18 years an attempt by the U.S. Supreme Court to determine what is obscene

and what is not obscene. We have seen many statutes declared unconstitutional and we have seen the court vacillate back and forth as to exactly what can be defined as pornography or obscenity. We find that many of the Supreme Court decisions contain a number of separate opinions, with many dissenting opinions.

However, we must keep in mind that the U.S. Supreme Court, in its obscenity cases, has not stated that the states must pass obscenity laws prohibiting obscenity or pornography. The Supreme Court's decisions merely limit the State's powers in defining what is or is not pornography or obscenity. Therefore, merely because the Supreme Court has attempted, through a number of decisions, to set down what exactly constitutes obscenity or pornography does not mean that the states are required to, or even should, pass laws making such activity unlawful. The association urges that the Montana Constitution places even more limitation upon the state, since the Montana Constitution provides protection for freedom of expression and protection of the right to privacy.

It must be admitted that there are some individuals who wish to impose their moral beliefs upon everyone else. Originally, these moral beliefs took the form of such things as blue laws, adultery, fornication, obscenity, drunkeness, loitering, plus many others. Over the years, we have seen a relaxation of the attempt to impose one person's moral beliefs upon everyon else. Blue laws have all but disappeared throughout the United States including Montana. We have stricken the laws concerning adultery and fornication from the books, It is no longer considered illegal to loiter, recognizing that every person's life style is somewhat different. There is a move to de-criminalize drunkeness. We have come to recognize that as long as an activity does not harm society, it should not be regulated or forbidden.

It is argued that obscenity or pornography is harmful on society. We submit that there is no evidence to support this, save and accept people's beliefs. The U.S. Congress created a special commission to study the obscenity issue, and President Johnson appointed 18 members to that commission. In 1970, after two years of intensive study, the commission on obscenity and pornography proposed a number of recommendations to the President, Congress and the American people.

Those persons who felt that obscenity should be outlawed long awaited the commission's report, hailing that it would forever strike down the ugly head of obscenity and pornography. Unfortunately, the commission did not reach the same conclusions, and since then, the commission's report seems to be waived aside as irrelevent.

However, the commission reported that the federal government, and the state and local governments, should not seek to interfere with the rights of adults who wish voluntarily to read or obtain or view explicit sexual materials. The commission further stated that all such federal, state, and local laws prohibiting the sale, exhibition and distribution of sexual materials to consenting adults should be repealed.

The commission further found that there was no evidence that exposure to or use of explicit sexual materials plays a significant role in the causation of social or individual harms such as crime, delinguency, sexual or not sexual deviancy or severe emotional disturbances.

The commission found that public opinion does not support the position of legal prohibitions upon the rights of adults to read or see explicit sexual materials, and found no evidence that the lawful distribution of explicit materials to adults have a harmful effect upon the individual morality of American citizens or upon the moral climate of America as a whole.

Finally, the commission found that explicit sexual materials are sought as a source of intertainment and information by substantial numbers of American adults.

We must keep in mind that this commission was created by the U.S. Congress, and the members were appointed by the President of the U.S. that the commission took over two years to prepare its report, and based its report upon exhaustive documented research, surveys and empirical investigations.

Flying in the face of this commission, and of the continued relaxation of the attempts to impose moral beliefs upon others, we see legislation such as Senate Bill 250. It reaffirms the position that some people are offended by the very idea that other people read and enjoy explicit adult material. However, one of the basic premises of our free society, and particularly of Montana under its new constitution, is that people should be able to read and think without government interference. The mere fact that some people object to others reading or viewing explicit material is simply not a legitimate basis for legislation.

We must now turn to Senate Bill 250 as it applys to the motion picture industry and the theatre owners in Montana. For a number of years the motion picture industry has subscribed to a rating system. We are all familiar with the G, GP Restricted and X rating system. When a movie is advertised either in the newspaper on radio, television or on a billboard, it contains the rating. If I go down to the local theatre in Helena to see an X rated movie, I am not taken unaware. I know before I go into that theatre that the movie will show explicit sexual material. No one has tricked me, or suddenly subjected me to what might be objectionable. I have made a free choice of my own will to see a particular movie.

There is a great deal of difference between movies and the publication field. One might pick up a magazine or open his mail not expecting to see explicit sexual material, and that person might be incensed or shocked upon finding such material in the magazine or in the mail, especially when he has been given no advance notice. However, in the area of motion pictures, I must voluntarily undertake an act to go see a specific movie which I know in advance will contain such material.

Sometime ago there was extensive coverage in the news media concerning Attorney General Woodahl's objecting to certain pictures contained in Time Magazine. The Attorney General felt that such pictures should not be in Time Magazine, and he exercised a right that he has to express his disapproval. He cancelled his subscription to Time Magazine. It now appears that the Attorney General, and others wish to propose their beliefs upon us, and have us all cancel our subscriptions to Time Magazine.

Instead, I maintain that I can exercise my right of displeasure by not going to an R rated or X rated movie. If it is true that the majority of the people do not wish to see this type of movie, they will also exercise their free rights, not go to the movies, and the affect will be that we will not have such movies. The motion picture industry, like any other business, either offers a product or a service. If a product or service is not wanted the business interprise dies or changes and offers what the public does want. It is evident, however, that the sexual explicit movies are wanted by the general public. R and X rated movies are not dying out, and this is because the public is paying its money to see these movies. No one is forcing them to go, and the public is showing its approval.

Just as I do not wish to impose my moral beliefs on others, neither do I want others to impose their moral beliefs upon me. I should not be able to force

anyone else to go to an R rated movie or an X rated movie, or force anyone else to read certain magazines or to receive certain types of mail. If I attempted to do this, or if I attempted to have a law passed that said you had to go to a movie that was X rated, I would be laughed at.

For some reason, the proponents to Senate Bill 250 are not laughed at. For some reason, they and others feel that they must protect me from seeing something that is objectionable to them. There is no real evidence to say that I will be harmed by seeing this, but they don't feel that I should see it, and therefore have some gut reaction that it must be harmful.

We have noticed a move in Montana in recent years to expand civil rights, civil liberties, the rights to privacy and to recognize different life styles. There was a hearing in the floor of the Senate on Tuesday concerning the rights of 18 year olds to drink. Many of the Senators who opposed a prohibition of 18 year olds to drink stressed their rights as adults.

Several weeks ago there was a hearing for one of the House committees concerning legalizing prostitution under certain instances. Interestingly enough there were no opponents to that bill. We have seen a change in the makeups of families, the rise in women's rights, the recognition that women are individuals with basic liberties and rights.

We all recognize that the state has a legitimate interest in protecting its youth from materials which they are not ready to understand, accept, approve or disapprove. We have basic tough laws protecting the youth from obscenity and pornography. We do not need to protect adults, since there is nothing to protect them from.

Therefore, the Montana Theatres Owners Association opposes passage of Senate Bill 250.

NAME: Tim Warner DATE: 2/5/74

ADDRESS: RTD Box 13-B

PHONE: 587-2124

REPRESENTING WHOM? Theatre Operator Inc

APPEARING ON WHICH PROPOSAL: _____

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ✓

COMMENTS: Oppose Sec. 250 on grounds against State Censorship

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: DOUG WILLIAMS DATE: 2/6/75

ADDRESS: RT 3 BOX 23 BOZEMAN MT.

PHONE: 587-7495 - 587-1251

REPRESENTING WHOM? STATE THEATRE ASSC. (NATO)

APPEARING ON WHICH PROPOSAL: SB 250 - OBSENITY

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ✓

COMMENTS: AS PRESIDENT OF THE STATE THEATRE ASSOCIATION I HAVE DISCUSSED THIS BILL WITH MOST THEATRE OWNING IN THE STATE. WE FEEL YOU HAVE SUPPRESSING MANY GOOD WORABLE LAWS CONCENING MINOR CHILDREN. YOU ARE ADDING ADULTS TO THIS ! ADULTS MUST HAVE OWN FREEDOM TO SEE AND CHOOSE.

THEATRE OWNING ARE NOT SENSORS AND THE STATE SHOULD NOT BE !

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Lyle Cox DATE: 2/7/75

ADDRESS: P.O. Box 20195, Billings, Mt.

PHONE: 1-406-259-0175

REPRESENTING WHOM? Carisch Theatres, Inc.

APPEARING ON WHICH PROPOSAL: Senate Bill 250

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ✓

COMMENTS: I oppose the sections of the bill that authorize censorship of the art forms in particular movies. Also I do not like the bill because it lacks authority to preempt local regulation.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: DARRELL GABEL DATE: 2-6-75

ADDRESS: 620 STADLER RD. HELENA MONT.

PHONE: 458-9685

REPRESENTING WHOM? Theatre Operators Inc.

APPEARING ON WHICH PROPOSAL: SB-250

DO YOU: SUPPORT?_____ AMEND?_____ OPPOSE? X

COMMENTS: I oppose Senate Bill 250 Due to Freedom of Choice.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: LARRY FLESCH DATE: 1/6/74

ADDRESS: P.O. Box 868

PHONE: 434-2181

REPRESENTING WHOM? INTERSTATE AMUSEMENT. INC. (THEATRES)

APPEARING ON WHICH PROPOSAL: SB 250

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? OPPOSE

COMMENTS: This bill tends to censor the free choice of adults in matters that call for a personal preference. As such it blatently violates our state constitution.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Attach 5

NAME: Geo. E. BUZZAS DATE: 2/6/75

ADDRESS: 149 RIVERVIEW DR. E - GREAT FALLS

PHONE: 453-3872

REPRESENTING WHOM? MONT. THEAT. OWNERS

APPEARING ON WHICH PROPOSAL: SENATE BILL 250

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: AGAINST FREEDOM OF CHOICE AND EXPRESSION - FOR ADULTS. WOULD CRIPPLE THEAT. OWNERS IN THE STATE WHO HAVE BIG INVESTMENTS IN REAL ESTATE - PROVIDE EMPLOYMENT - PAY - TAXES. AND PROVIDE ENTERTAINMENT FOR 100S OF THOUSANDS OF MONTANANS - OF ALL AGES.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

MINUTES OF THE MEETING
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
MONTANA STATE SENATE

February 15, 1975

The thirteenth meeting of the Public Health, Welfare and Safety Committee was called to order by Chairman Norman on the above date in Room 405 of the State Capitol Building at approximately 11:00 a.m.

ROLL CALL: All members were present except Senator Stephens (excused).

CONSIDERATION OF SENATE BILL NO. 250: An act for the revision of the laws relating to obscenity and indecent exposure; repealing Sections 94-5-504, 94-8-110 and 94-8-110.1, R.C.M. 1947.

As the committee could not act on the bill positively as it was originally drafted, an amendment was offered by the subcommittee, consisting of Senators Chet Blaylock, Stan Stephens, and Robert Lee, with the aid of the Staff Attnorney, Woody Wright (See Attached Amendments 1).

It was moved by Senator Blaylock that these amendments be approved. The motion was carried unanimously in the roll call vote. Senator Blaylock then moved that Senate Bill 250 DO PASS AS AMENDED.

RECONSIDERATION OF SENATE BILL NO. 323: This bill would require County Welfare Departments to administer food stamp programs; and social services programs as may be directed by the Department of Social and Rehabilitation Services; etc.

This bill was returned to committee in order to be further amended. (See Attachment Amendments 2). Senator Himsl moved to accept these amendments. The motion was carried unanimously. Senator Lee then moved SB 323 DO PASS AS AMENDED. The roll call vote shoed a unanimous vote in favor of the motion.

ACTION ON SENATE BILL 316: This is an act to meet Federal requirements by redefining outpatient facilities, including a definition of construction and requiring approval from the Department of Health and Environmental Sciences for the construction of health care facilities.

After some discussion on this bill it was moved by Senator Lee that SB 316 DO PASS. The motion carried with Senator Olson voting "No" on the roll call vote.

ACTION ON SENATE BILL 322: An act to permit the hospital related facility known as outpatient facility -- B to include observation beds.

ROLL CALL

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

44th LEGISLATIVE SESSION -- 1975

Date Feb. 15

NAME	PRESENT	ABSENT	EXCUSED
NORMAN, Bill, Chairman	X		
SEIBEL, Ann, Vice Chairman	X		
BLAYLOCK, Chet	X		
COLBERG, Richard A.			
LEE, Robert E.	X		
HIMSL, Matt	X		
OLSON, S.A.	X		
STEPHENS, Stan		X	X

Each day attach to minutes

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH, WELFARE AND SAFETY

Date FEBRUARY 15, 1995 Bill No. 260 Time _____

NAME	YES	NO
SEIBEL, Ann, Vice Chairman	X	
BLAYLOCK, Chet	X	
COLBERG, Richard A.	X	
HIMSL, Matt		X
LEE, Robert E.	X	
OLSON, S.A.	X	
STEPHENS, Stan	EXCUSED	
NORMAN, Bill, Chairman	X	

VICKIE DAWN MAST
Secretary

BILL NORMAN
Chairman

Motion: DO PASS AS AMENDED

(include enough information on motion--put with yellow copy of committee report.)

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH, WELFARE AND SAFETY

Date FEBRUARY 15, 1975 Bill No. ~~SB~~ 250 Time 10:45

NAME	YES	NO
SEIBEL, Ann, Vice Chairman	X	
BLAYLOCK, Chet	X	
COLBERG, Richard A.	X	
HIMSL, Matt		X
LEE, Robert E.	X	
OLSON, S.A.	X	
STEPHENS, Stan	EXCUSED	
NORMAN, Bill, Chairman	X	

VICKIE DAWN MAST
Secretary

BILL NORMAN
Chairman

Motion: Strike Amend as per attached

(include enough information on motion--put with yellow copy of committee report.)

JUDICIARY COMMITTEE

March 20, 1975

The seventy-second meeting of the House Judiciary Committee was called to order in Room 436 of the Capitol Building at Helena, Montana, on Thursday, March 20, 1975, at 9:00 AM. Representative Herb Huennekens, Chairman, presided. All members were present except Representative Kimble, absent, excused.

Bills scheduled for hearing this date were Senate Bills Nos. 139 and 250, taken in this order.

SENATE BILL NO. 130 Senator Jean A. Turnage, District #13, is chief sponsor of this act to add a filing fee to be paid to the Secretary of State when filing tort claims. He introduced this at the request of the Secretary of State. This office is afraid sometime a claim will come in without a fee and with a deadline problems could arise. The $10 filing fee is justified as reasonable based on the processing mechanics the Secretary of State must go through as required by law. They are actually losing money.

Proponent Dorris R. Dietzen, representing the Secretary of State's Office, stated they favor the bill and provided the committee with prepared testimony (see exhibit).

There were no other proponents and no opponents. Senator Turnage elected not to close. Following very brief questioning by the committee, the hearing was closed.

SENATE BILL NO. 250 Senator Cornie R. Thiessen, District #27, is chief sponsor of this act for the revision of the laws relating to obscenity. He stated he handled this bill for a group of people that insisted something be tightened up. The bill was amended by the Senate down to where it is only a matter of making it legal and proper within the confines of the United States and state Constitutions. Two of his chief proponents were unable to be present to testify today.

Proponent Mr. Biers stated the bill, as it now stands, is an attempt to make present law in Montana; the old code was based on Memoirs vs. Massachusetts case. He stated the problem with the Montana code now is conduct which you are going to regulate must be specifically designated. We have to have these guidelines or it is an unconstitutional statute. We have a duty to come up with a constitutional statute. Proponent Senator Jean Turnage stated that Mr. Biers had well described the need for the bill.

Proponent Mrs. Tom Winsor stated that as the mother of two school age children with a degree in psychology, a Christian and a Welcome Wagon hostess, she wished to testify in favor of the bill. She objected to the easy availability of

pornographic material, especially to children. She pointed out that we have a court system to interpret the intent of the law. There were no other proponents.

Opponent William L. Romine, representing the Montana Theatre Owners Association, left a prepared statement. Opponent Ray Gulick, representing the Public Lobby, stated you shouldn't make laws you can't enforce and left a prepared statement. There were no other opponents.

Senator Thiessen, in closing, stated he would go along with the first amendment if the committee would change "more" to "less." He stated we censor all the time in government, we censor farmers and ranchers and others. He stated that Tom Biers would comment on the amendments.

Tom Biers stated the first amendment might be mere surplusation, his research indicates they can't go beyond the state statute.

Representative Moore stated he noticed the act has a paragraph on indecent exposure in the original subsection (d) at the top of page 2. 94-5-504 relates directly to indecent exposure. Mr. Romine stated the original bill amended three separate sections of the present code, amended these in the Senate but forgot to change the title.

Representative Hager questioned whether this would affect movies being filmed in Montana, to which Tom Biers replied that it possibly could. Representative Hager then questioned if the proposed amendment would work a hardship on the theatre, to which Mr. Romine replied that on page 4, lines 13 through 15, it states screens be designed in such a way that they can't be seen outside the theatre. Theatre owners are trying to get protection back in the bill with his amendment.

Representative Rasmussen questioned whether this bill sets out to do what Senator Thiessen intended and he was advised that it doesn't, but it is better than nothing. Representative Meloy stated the reason for the bill is because the existing definition on obscenity is from Memoirs and questioned why they didn't make the same changes to the definition of sexual material in section 2 as the Supreme Court has given freedom of speech.

The hearing was then closed.

EXECUTIVE SESSION.

SENATE BILL NO. 130 Representative Lory made a motion BE CONCURRED IN. The motion carried unanimously with Representatives Moore, Yardley, Day and Kimble absent.

SENATE BILL NO. 250 Representative Meloy proposed several amendments and stated he wants to remove "indecent exposure" from the proposed amendment (see exhibit). He stated the Miller vs. California decision reduces it from the national standard to a state standard, all you are doing is conforming existing law to Miller vs. California. Representative Lory suggested adding an effective date of July 1, 1975, and save Missoula from going to court.

Representative Meloy moved to amend his first amendment by removing "indecent exposure" and as amended moved the amendment to page 4, line 4, by adding a new subsection (5). The motion carried with Representative Rasmussen voting no.

Representative Meloy moved to amend on page 4, line 12, by adding a new subsection (3) as per exhibit. The motion carried unanimously.

Representative Moore moved to strike on page 2, subsection (d) in its entirety and stated that 94-5-504 covers this in the existing law. Following a discussion by the committee on obscene material, Representative Moore withdrew his motion.

Representative Meloy moved to strike "indecent exposure" from the title. The motion carried unanimously with Representatives Kimble, Day, Yardley and Halvorson absent.

Representative Meloy moved to add a section 3, stating the act was effective upon passage and approval. The motion carried with Representative Hager voting no.

The motion that Senate Bill 250 BE CONCURRED IN AS AMENDED carried unanimously. Representatives Kimble, Day, Yardley, Halvorson and Lester were absent.

SENATE BILL NO. 377 Representative Seifert moved BE NOT CONCURRED IN on this measure to revise commitment procedures. A substitute motion of BE CONCURRED IN was made by Representative Moore. Representative Anderson stated he had doubts about this yesterday, no question there are lots of good things in here but it is so detailed. He feels the bill should get to the floor.

Representative Moore stated that he knows from experience as a public defender that there are some real problems with commitment procedures, he went through Warm Springs at the time he was a public defender and was advised the greatest abuses occur in involuntary commitments. He feels that the fact that a public defender is there and could oppose makes all the difference in the world. If there wasn't a situation of abuse virtually everything in the bill could be waived. The patient's attorney bill was killed. It won't be a difficult or cumbersome procedure. He stated the four-hour limitation is to make sure they don't run the patient through anything too terribly rigorous on the initial examination.

SENATE BILL NO. 250

Mr. Chairman, and members of the committee, my name is William L. Romine and I represent the Montana Theatre Owners Association. We originally opposed Senate Bill 250, when heard in the Senate Public Health Committee. However, that Committee extensively amended the bill by, in effect, writing a substitute bill. With the amendments that we are proposing today, we can give our complete support to passage of Senate Bill 250.

As you can see, the Senate committee decided that Montana adults should not be censored as to what they may or may not read or see. Originally, Senate Bill 250 would have applied to both adults and minors. At the commitee hearing heard in the Senate, it was evident that the main problem concerned access by minors to books and magazines sold by book stores and newstands. For that reason, the committee placed a requirement that such material was to be separated by an opaque structure from other materials displayed and that the owner would have to establish by official identification that each person viewing the displayed material is at least 18 years of age. The committee also raised the penalty for the violation of the obscenity statute.

When the bill was heard by the full Senate on second reading, Senator Turnage proposed the amendment found at the bottom of page 2 and the top of page 3. This newly added language is merely a restatement of the definition most recently laid down by the U.S. Supreme Court.

The Theatre Owners Association feels that the amendments we are proposing today are also necessary. The first amendment in effect provides that the state legislature has pre-empted the field in obscenity. I believe that the present law already does this, but there is a question which would have to be resolved by a court.

For instance, there is an ordinance proposed in Missoula, which will be voted upon by the public shortly, which would apply obscenity laws to not only minors but also to adults. I feel that this violates the present law, but it is evident it would take a Supreme Court decision to answer the question. I think the legislature has spoken in the area of obscenity, and has decided that adults should be free to see what they wish. This amendment would not prohibit a city from adopting the Montana statute as an ordinance, but it would prohibit the city from making the ordinance more restrictive, or make it apply to adults.

The second amendment strikes the words drive-in movie screen from line 12 page 4, and adds a new subsection 3. We feel this is necessary because the bill could be interpreted to mean that a drive-in theatre owner would have to build an opaque dome over his drive-in theatre. I am sure this was not the intent of the Senate Committee, and have been informed by the chairman of the subcommittee that the amendment concerning an opaque structure was intended to apply to book stores and newstands. All that this amendment does is place back into law the present law which requires that the movie screen not display material that is easily visible from a public street.

The association, with these amendments, gives complete support of passage of Senate Bill 250. I think that most people in Montana feel that, as adults, they have the right to view whatever they so desire. This is a voluntary act by an adult, and should not be prohibited by state law.

This is especially true in the area of motion pictures. With the rating system, a person knows before he goes to the motion picture what type of movie is going to be shown. If a motion picture is rated X the adult is voluntarily deciding to see that type of movie. He is not taken unawares, and he has not been tricked into seeing the movie.

If he does not wish to see that type of material, he need not go to the movie.

The present Montana law is similar to the Illinois criminal code and to the American Law Institute Model Penal Code draft. It recognizes the right of privacy, it recognizes the freedom of choice, and it also recognizes the state's right to protect minors from obscenity. Before the state should become involved in censorship as to adults, there must be a showing of a compelling state interest.

There are those who argue that obscenity is harmful to society. There is no real evidence to support this, except for the belief of some people. The U.S. Congress created a special commission to study the obscenity issue, and President Johnson appointed 18 members to that commission. After two years of intensive study, the commission in 1970, proposed a number of recommendations to the President, Congress and the American people.

Those persons who felt that obscenity should be outlawed had long awaited the commission's report, hailing that it would forever strike down the ugly head of obscenity. Unfortunately, the commission did not reach the same conclusion and since then, the report of the commission has been waived aside as irrelevent.

However, the commission reported that the federal government and state and local governments should not seek to interfere with the rights of adults who wish voluntarily to read or obtain or view explicit sexual materials. The commission furthe stated that all such federal, state, and local laws prohibiting the sale, exhibition and distribution of sexual materials to consenting adults should be repealed.

The commission further found that there was no evidence that exposure to use of explicit sexual material played a significant role in social or individual harm, suc as crime, delinquency, sexual deviancy, or severe emotional disturbances.

The commission further found that public opinion does not support the position of legal prohibition, upon the rights of adults to read or see explicit sexual materials, and found no evidence that the lawful distribution of explicit sexual materials to adults have a harmful effect upon the individual morality of the American citizen or upon the moral climate of America as a whole.

We must remember that this commission was created by the U.S. Congress, the members were appointed by the President of the U.S. that the commission took over two years to prepare its report, and that the report was based upon exhaustive documented research, surveys and empirical investigations.

The mere fact that we still have people who wish to place their moral beliefs upon others, and prohibit others from seeing things which they feel are wrong, reaffirms the position that some people are offended by the very idea that other people read and enjoy explicit sexual material. However, one of the very basic premises of our free society, is that people should be able to read and think without government interference. The mere fact that some people object to others reading or viewing explicit sexual material is simply not a legitimate basis for legislation.

All in all, the association feels that the Senates approach to Senate Bill 250 was the logical and proper approach. The association neither condones nor objects to obscenity or pornography and in fact, most of the members of the association do not show such material in their theatres. However, they firmly believe that the state should not censor what adults wish to see, nor should the state make a criminal of the theatre owner who shows a movie which may be determined by a court to be obscene when an adult has voluntarily decided to see that movie.

I urge the committee to give consideration to the proposed amendments, to adopt those amendments, and to then concur in passage of Senate Bill 250 as amended.

AMENDMENT TO SENATE BILL 250

Amend Senate Bill 250, Third Reading copy, as follows:

Section 1, page 4, after Line 4 add a new sub-section (5) to read as follows:

"(5) NO CITY OR MUNICIPAL ORDINANCE MAY BE ADOPTED WHICH SHALL BE MORE RESTRICTIVE AS TO OBSCENITY AND INDECENT EXPOSURE THAN THE PROVISIONS OF THIS SECTION AND SECTION 94-8-110.1."

-and-

Section 2, page 4, line 12, strike the words "Drive-In movie Screen,"

-and-

Section 2, page 5, after line 7 add a new sub-section (3) to read as follows:

"(3) A DRIVE-IN MOVIE SCREEN SHALL NOT DISPLAY ANY MATERIAL PROHIBITED BY THIS SECTION IN SUCH MANNER THAT THE DISPLAY IS EASILY VISIBLE FROM OR IN ANY PUBLIC STREET, SIDEWALK, THOROUGHFARE OR TRANSPORTATION FACILITY."

NAME Ray Gulick Bill No. SB 250

ADDRESS Joplin Mo. Date 7/20/75

WHOM DO YOU REPRESENT? Public Lobby

SUPPORT _____ OPPOSE ✓ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Shouldn't try to make laws that are impossible to enforce..

Movies and television are in a state of breakdown and it must be because the box office demands it.

The problem is better solved in the schools and that has been eradicated by laws under the guise of Seperation of Church & State.

Moral values are built in in early youth - they must be taught the results and value of moral discipline to themselves.

Adults feel that they are excused from observing morality but there was an example before this legislature - licensing houses of Prostitution. Luckily it was killed

But the pressures are there
and even adults have no right to
observe unnatural acts

SENATE BILL NO. 250

INTRODUCED BY THIESSEN, TURNAGE, MURPHY,

LYNCH, KOLSTAD, DRAKE, FLYNN

A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE REVISION OF THE LAWS RELATING TO OBSCENITY ~~AND INDECENT EXPOSURE; REPEALING SECTIONS 94-5-504, 94-8-110 AND 94-8-110.1, R.C.M. 1947~~ AMENDING SECTIONS 94-8-110 AND 94-8-110.1, R.C.M. 1947; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

(Strike everything after the enacting clause and insert:)

Section 1. Section 94-8-110, R.C.M. 1947, is amended to read as follows:

"94-8-110. Obscenity. (1) A person commits the offense of obscenity when, with knowledge of the obscene nature thereof, he purposely or knowingly:

(a) Sells, delivers or provides, or offers or agrees to sell, deliver or provide any obscene writing, picture, record or other representation or embodiment of the obscene to anyone under the age of eighteen (18); or

(b) Presents or directs an obscene play, dance or other performance or participates in that portion thereof which makes it obscene to anyone under the age of eighteen (18); or

(c) Publishes, exhibits or otherwise makes available anything obscene to anyone under the age of eighteen (18); or

(d) Performs an obscene act or otherwise presents an obscene exhibition of his body to anyone under the age of eighteen (18); or

(e) Creates, buys, procures or possesses obscene matter or material with the purpose to disseminate it to anyone under the age of eighteen (18); or

(f) Advertises or otherwise promotes the sale of obscene material or materials represented or held out by him to be obscene.

~~(2) A thing is obscene if:~~

~~(a) the dominant theme of the material taken as a whole appeals to a prurient interest, that is, a shameful or morbid interest in violence, nudity, sex or excretion; and~~

~~(b) the material is patently offensive because it affronts contemporary community standards relating to the description or representation of sexual matters; and~~

~~(c) the material is utterly without redeeming social value.~~

(2) A THING IS OBSCENE IF:

(A) IT IS A REPRESENTATION OR DESCRIPTION OF PERVERTED ULTIMATE SEXUAL ACTS, ACTUAL OR SIMULATED, OR

(B) IT IS A PATENTLY OFFENSIVE REPRESENTATION OR

REFERENCE BILL

DESCRIPTION OF NORMAL ULTIMATE SEXUAL ACTS, ACTUAL OR SIMULATED, OR

(C) IT IS A PATENTLY OFFENSIVE REPRESENTATION OR DESCRIPTION OF MASTURBATION, EXCRETORY FUNCTIONS OR LEWD EXHIBITION OF THE GENITALS, AND

(D) TAKEN AS A WHOLE THE MATERIAL:

(I) APPLYING CONTEMPORARY MONTANA STANDARDS, APPEALS TO THE PRURIENT INTEREST IN SEX,

(II) PORTRAYS CONDUCT DESCRIBED IN (A), (B), OR (C) ABOVE IN A PATENTLY OFFENSIVE WAY, AND

(III) LACKS SERIOUS LITERARY, ARTISTIC, POLITICAL OR SCIENTIFIC VALUE.

(3) In any prosecution for an offense under this section evidence shall be admissible to show:

(a) The predominant appeal of the material, and what effect if any, it would probably have on the behavior of people;

(b) The artistic, literary, scientific, educational or other merits of the material;

(c) The degree of public acceptance of the material in this state;

(d) Appeal to prurient interest, or absence thereof, in advertising or other promotion of the material; or

(e) Purpose of the author, creator, publisher or disseminator.

(4) A person convicted of obscenity shall be fined ~~not to exceed~~ at least five hundred dollars ($500) but not more than one thousand dollars ($1,000), or ~~be~~ imprisoned in the county jail for a term not to exceed six (6) months, or both.

(5) NO CITY OR MUNICIPAL ORDINANCE MAY BE ADOPTED WHICH IS MORE RESTICTIVE AS TO OBSCENITY THAN THE PROVISIONS OF THIS SECTION AND SECTION 94-8-110.1."

Section 2. Section 94-8-110.1, R.C.M. 1947, is amended to read as follows:

"94-8-110.1. Public display of offensive sexual material. (1) A person is guilty of public display of offensive sexual material when, with knowledge of its character and content, he displays or permits to be displayed in or on any window, showcase, newsstand, display rack, wall, door, billboard, ~~drive-in-movie-screen,~~ marquee or similar place, ~~in-such-manner-that-the-display-is--easily visible---from---or--in--any--public--street,--sidewalk,--or thoroughfare--or--transportation--facility,~~ any pictorial, three-dimensional or other visual representation of a person or a portion thereof of the human body that predominantly appeals to prurient interest in sex, and is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors, and is utterly without redeeming social importance

for minors~~.~~; and does not

(a) separate that material by an opaque structure from other materials displayed, and

(b) establish, by official identification, that each person viewing the displayed material is at least eighteen (18) years of age.

(2) A theater may not display previews or projections advertising or promoting motion pictures if such previews or projections contain a display of offensive sexual material and if minors are permitted to attend the showing of the motion picture then being featured.

(3) A DRIVE-IN MOVIE SCREEN MAY NOT DISPLAY ANY MATERIAL PROHIBITED BY THIS SECTION IN SUCH MANNER THAT THE DISPLAY IS EASILY VISIBLE FROM ANY PUBLIC STREET, SIDEWALK, THOROUGHFARE OR TRANSPORTATION FACILITY.

(4) A person convicted of the public display of offensive sexual material shall be fined ~~not to exceed~~ at least five hundred dollars ($500) but not more than one thousand dollars ($1,000), or imprisoned in the county jail for a term not to exceed six (6) months, or both."

SECTION 3. THIS ACT IS EFFECTIVE UPON PASSAGE AND APROVAL.

-End-